United Nations CEDAW/C/BRN/CO/1-2/Add.1

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
23 August 2017

Original: English

Committee on the Elimination of Discrimination against Women

Concluding observations on the combined initial and second periodic reports of Brunei Darussalam

Addendum

Information provided by Brunei Darussalam in follow-up to the concluding observations*

[Date received: 17 August 2017]

Note: The present document is being circulated in English, French and Spanish only.

* The present document is being issued without formal editing.

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Reservations

Response to issues raised in concluding observation paragraph 9

The Committee strongly encourages the State party to consider withdrawing or narrowing down its general reservation and withdrawing its specific reservation to article 9 (2) of the Convention, with a view to ensuring that women fully benefit from all the rights enshrined in the Convention. It recommends that the State party use as examples the best practices of States parties with similar social, cultural, religious and legal systems that have withdrawn similar reservations and successfully brought their legislation into conformity with the Convention.

1. Brunei Darussalam appreciates the Committee's recommendation to look into the best practices of States Parties with similar social, cultural, religious and legal systems that have withdrawn similar reservations.

2. As has been clarified previously, the Brunei Nationality Act (Cap 15) allows a Bruneian father or a Bruneian mother of a child to obtain nationality of the child. Section 6 of the Act provides for the acquisition of nationality of a minor by way of registration i.e. application of the parent or guardian who is a Brunei national. As such a Brunei woman married to a foreign national can transmit her nationality to her children.

3. After a careful examination of the reservations made by other States Parties and without prejudice to the generality of CEDAW, Brunei Darussalam wishes to retain its reservations with respect to Paragraph 2 of Article 9 and Paragraph 1 of Article 29, as well as any other aspects of CEDAW which may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam, the official religion of Brunei Darussalam.

Constitutional framework and discriminatory laws

Response to issue raised in recommendation paragraph 13 (a)

The Committee urges the State Party to immediately review the new Sharia Penal Code Order 2013 with a view to repealing its direct and indirect discriminatory provisions affecting women.

4. Brunei Darussalam takes note of the recommendation made by the Committee. The Syariah Penal Code Order 2013 is necessary to strengthen the current common law relating to crimes. For many years now, the SPCO and the common law system has been running in parallel and this is unique to Brunei Darussalam.

5. The Syariah Penal Code Order 2013 is non-discriminatory in nature. The Code is necessary to strengthen the current criminal law and the protection of human rights including rights of women and to protect religion, life, lineage, property and intellect.

6. This dual system has the full support of the people of Brunei Darussalam who today continue to enjoy a high standard of living in a peaceful, safe and harmonious environment. Moreover, our women have progressed well in their advancement and contribute significantly towards the development of the country.

Marriage and family relations

Response to issue raised in recommendation paragraph 39 (a)

The Committee recommends that the State party reform the Islamic Family Law Act, taking into consideration the experiences of countries with similar religious backgrounds and legal systems that have successfully harmonized their national legislation with their legally binding obligations under the Convention, specifically with regard to matters of property, divorce, inheritance and the requirement of authorization from the guardian (wali) in order to enter into marriage.

7. The Islamic Family Law Act has incorporated provisions that protect women and children in Brunei Darussalam and it does not in any way dilute or minimize Brunei Darussalam's obligations under the Convention. Efforts to strengthen the protection of our women and children is an ongoing process.